



City of NORFOLK

C: Dir., Department of City Planning

To the Honorable Council
City of Norfolk, Virginia

July 21, 2015

From: George M. Homewood, AICP, CFM, Planning Director

Subject: **Zoning Text Amendment to portions of Sections 24-4, 24-7, and 25-5.6 to codify procedures related to continuances and withdrawals of applications pending before the Planning Commission**

Reviewed:

Ronald H. Williams, Jr., Deputy City Manager

Ward/Superward: N/A

Approved:

Marcus D. Jones, City Manager

Item Number:

PH-2

- I. **Staff Recommendation:** Approval
- II. **Commission Action:** By a vote of **6 to 0**, the Planning Commission recommends **Approval**.
- III. **Request:** Zoning Text Amendment to codify procedures related to continuances and withdrawals of Planning Commission applications.
- IV. **Applicant:** City Planning Commission
- V. **Description:**
 - The goals of this proposed continuance policy are to:
 - Reduce the number of times that a zoning text amendment, rezoning, special exception, or general plan amendment is continued so that applications proceed to a vote or a withdrawal more expeditiously.
 - Maintain the Planning Commission's opportunity to use the continuance as a means to allow additional time for an applicant to resolve issues that arise or persist at the time of the initial public hearing.
 - Discourage the use of the continuance as a delaying tactic or placeholder for an application that is not ready for a vote.
 - Ensure that members of the public who wish to be heard at the public hearing are not repeatedly inconvenienced by the taking of a continuance.
 - Maintain compliance with state law requiring action on amendments referred to the Planning Commission by the City Council within 100 days of the initial public hearing.
 - Maintain compliance with prior restraint limitations of the U.S. Constitution, First Amendment.
 - Remove the one-year restriction on refiling applications that have been withdrawn.
 - If the same application is refiled within one year, the applicant will pay all associated fees and costs of advertisement.

Staff point of contact: Chris Whitney at 823-1253, chris.whitney@norfolk.gov

Attachments:

- Staff Report to CPC dated June 25, 2015 with attachments
- Proponents and Opponents
- Ordinance



Planning Commission Public Hearing: June 25, 2015

Executive Secretary: George M. Homewood, AICP, CFM *2MW III*

Staff: Chris Whitney, CFM *CW*

Staff Report	Item No.	1
Applicant	City Planning Commission	
Request	Text Amendment	Amendment to portions of sections 24-4, 24-7, and 25-5.6 to codify procedures related to continuances and withdrawals of applications pending before the Commission

A. Summary of Request

- This request would modify the procedures for continuances and withdrawals of applications pending before the City Planning Commission.
- The proposed continuance policy is as follows:
 - Continuance at the request of the Planning Commission without consent of applicant:
 - Limited to one, and must include a statement on the record giving reasons for the continuance.
 - All continuances, no matter who requests:
 - Limited to three.
 - Any continuance must be to a certain date; no indefinite or general continuances are permitted.
 - If Planning Commission fails to vote within 75 days of the date the application was determined to be complete:
 - For any special exception to permit an entertainment establishment or to permit a sign which is allowed only by special exception: deemed to be a denial.
 - Does not include any delay caused by any continuance granted upon the applicant's request.
 - If Planning Commission fails to vote within 100 days of the date of the initial public hearing:
 - For any text amendment, rezoning, or general plan amendment that was initiated by resolution of City Council: deemed to be an approval.
 - For any text amendment, rezoning, or general plan amendment initiated by motion of the Planning Commission: deemed to be a denial.
 - For any rezoning, general plan amendment, or special exception (other than for an entertainment establishment or sign) initiated by

application of the landowner or owner's authorized representative: deemed to be a denial.

- If any application is withdrawn prior to a Planning Commission vote to recommend either approval or denial, then the applicant must pay all costs associated with giving notice of the public hearing for any submittal of the same application within one year of the date of the withdrawal.
- If City Council fails to vote on any special exception to permit an entertainment establishment or to permit a sign which is allowed only by special exception within 120 days of the date the application was determined to be complete, the application shall be deemed to be denied.
- The goals of this proposed continuance policy are to:
 - Reduce the number of times that a zoning text amendment, rezoning, special exception, or general plan amendment is continued so that applications proceed to a vote or a withdrawal more expeditiously.
 - Maintain the Planning Commission's opportunity to use the continuance as a means to allow additional time for an applicant to resolve issues that arise or persist at the time of the initial public hearing.
 - Discourage the use of the continuance as a delaying tactic or placeholder for an application that is not ready for a vote.
 - Ensure that members of the public who wish to be heard at the public hearing are not repeatedly inconvenienced by the taking of a continuance.
 - Maintain compliance with state law requiring action on amendments referred to the Planning Commission by the City Council within 100 days of the initial public hearing.
 - Maintain compliance with prior restraint limitations of the U.S. Constitution, First Amendment.
 - Remove the one-year restriction on refiling applications that have been withdrawn.
 - If the same application is refiled within one year, the applicant will pay all associated fees and costs of advertisement.

B. Plan Consistency

- The enhancing economic vitality chapter of *plaNorfolk2030* includes an action calling for modifications to city processes to support business investment.
 - The proposed changes are consistent with the recommendations of that action.

C. Zoning Analysis

The text amendment will establish guidelines for continuance requests and reinforce rules that are already codified in the *Zoning Ordinance*.

D. Transportation Impacts

N/A

E. Impact on the Environment

N/A

F. Impact on Surrounding Area/Site

N/A

G. Payment of Taxes

N/A

H. Civic League

N/A

I. Communication Outreach/Notification

Legal notification was placed in *The Virginian-Pilot* on June 11 and 18.

J. Recommendation

Staff recommends that the text amendment request be **approved**.

Attachments:

Proposed text

Proponents and Opponents

Proponents


None

Opponents

None

Form and Correctness Approved 

By


Office of the City Attorney

Contents Approved: 

By


DEPT.

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE TO AMEND PORTIONS OF SECTIONS 24-4, 24-7, AND 25-5.6 OF THE ZONING ORDINANCE OF THE CITY OF NORFOLK, 1992, SO AS TO CODIFY PROCEDURES RELATED TO CONTINUANCES AND WITHDRAWALS OF APPLICATIONS PENDING BEFORE THE COMMISSION.

- - -

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That Sections 24-4.5 and 24-4.6 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended), relating to the process for planning commission review of applications seeking amendments to the zoning ordinance, are hereby amended and reordained so as to codify a procedure for and limit the total number of continuances of pending applications. The text shall read as set forth in "Exhibit A," attached hereto.

Section 2:- That Section 24-7 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended), entitled "Limitation on amendments," is hereby amended and reordained so as to remove such limitation for withdrawals of pending applications to better comport with the codified procedure for continuances established herein. The text shall read as set forth in "Exhibit B," attached hereto.

Section 3:- That Section 24-5.6 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended), relating to the process for planning commission review of applications seeking special exception approvals, is hereby amended and reordained so as to codify a procedure for and limit the total number of continuances of pending applications. The text shall read as set forth in "Exhibit C," attached hereto.

Section 4:- The Council hereby finds that this zoning amendment is required by public necessity, convenience, general welfare, or good zoning practice.

Section 5:- That this ordinance shall be in effect from the date of its adoption.

ATTACHMENTS:

Exhibit A (1 page)

Exhibit B (1 page)

Exhibit C (1 page)

Exhibit A

24-4.5 *Notice of public hearing.* Before making any recommendation on a proposed amendment, the planning commission shall schedule and give notice of a public hearing pursuant to section 15.2-2204 of the Code of Virginia, as amended, to consider the proposed amendment. In the event that a proposed amendment covers substantially the same subject or any of the same described land as a previous application that was withdrawn within one (1) year of the date the new application is submitted, the applicant shall pay all actual costs associated with giving notice of the public hearing, in addition to any required application fee.

24-4.6 *Planning commission action.*

- (a) *Public hearing and recommendation.* The planning commission shall consider the proposed amendment at the public hearing scheduled pursuant to section 24-4.5. Following the public hearing, the commission shall recommend the approval or denial of the proposed amendment or the approval of some modification of the amendment and shall then submit its recommendation to the city council.
- (b) *Continuances.* Any application for a zoning amendment pending before the planning commission may be continued, however the total number of continuances for any one application shall be limited to no more than three (3). Any application may be continued by the commission without the consent of the applicant no more than once. All continuances shall be to a date certain and shall not be continued generally or indefinitely.
- (c) *Effect of no action.* For any application for a zoning amendment, any failure by the planning commission to make a recommendation within 100 days of the date upon which the application was determined to be complete by the Zoning Administrator, excluding any delay caused by any continuance granted upon the applicant's request, shall be deemed to be a recommendation as follows:
 - (1) For applications initiated by the city council, deemed to be approved.
 - (2) For all applications not initiated by city council, deemed to be denied.

Exhibit B

24-7 Limitation on amendments.

No application for an amendment to the zoning ordinance shall be considered by the city council or the planning commission within one year of final action of the city council upon a prior application covering substantially the same subject or any of the same described land. This provision, however, shall not impair the right either of the city council or of the planning commission to propose any amendment or change in the boundaries of any of the districts in this ordinance on their own motions at any time.

Exhibit C

25-5.6 *Planning commission action.* The staff's written recommendation shall be considered at the commission's public hearing. Following the conclusion of the public hearing, the commission shall recommend to the city council in writing that the special exception should be approved, approved subject to specific conditions, or denied.

- (a) *Continuances.* Any application for a special exception pending before the planning commission may be continued, however the total number of continuances for any one application shall be limited to no more than three (3). Any application may be continued by the commission without the consent of the applicant no more than once. All continuances shall be to a date certain and shall not be continued generally or indefinitely.
- (b) *Effect of no action.* Any application for a special exception to permit an entertainment establishment or to permit a sign that is required to have a special exception prior to display shall be acted upon by the planning commission within seventy-five (75) days of the date the application was determined to be complete by the Zoning Administrator, excluding any delay caused by any continuance granted upon the applicant's request.